

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ANA M. GARAY-DE JESÚS

Plaintiff

Vs.

FIRST TRANSIT OF PUERTO
RICO, INC.; INSURANCE
COMPANY "A"

Defendants

CIVIL NO.

PLAINTIFFS DEMAND
TRIAL BY JURY

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, the plaintiff, through the undersigned attorney, and very respectfully allege, state and request:

I. NATURE OF THE CASE

1. This is an action in torts, for damages, under Puerto Rico Civil Code, Article 1802, 31 L.P.R.A. Sec. 5141, et. seq.

II. JURISDICTION AND VENUE

2. This Honorable Court has jurisdiction over the parties and the subject matter of this litigation pursuant to 28 U.S.C. Sec. 1332, inasmuch as there is complete diversity of citizenship between the plaintiff and the defendants and the amount in controversy, exclusive of

costs and interests, exceeds seventy-five thousand dollars (\$75,000.00).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391(a) since the claims alleged arose in this judicial district.

III. JURY TRIAL DEMAND

4. The plaintiff requests a jury trial for all triable issues.

IV. THE PARTIES

5. The plaintiff is Ana Garay De Jesús, of legal age, citizen of the United States of America and resident of and with domicile in San Juan, Puerto Rico.

6. The Defendants are First Transit of Puerto Rico, Inc. and Insurance Company "A".

7. First Transit of Puerto Rico, Inc. is a corporation incorporated and organized in the State of Delaware and has their principal place of business in the State of Ohio.

8. First Transit of Puerto Rico is the owner and/or operator of a mass transit business who operates the Metrobus bus routes in San Juan, Puerto Rico.

9. First Transit of Puerto Rico conducted, either by itself, or through its agents, business transactions

within Puerto Rico, and it also participated, either by itself or through its agents, within Puerto Rico in the commission of the tort object of this complaint.

10. Defendant Insurance Company "A" is a corporation organized, and which has its principal place of business in a State other than the Commonwealth of Puerto Rico, and which had issued an insurance policy on behalf of First Transit of Puerto Rico, which policy covers for its liability under a factual situation such as the one alleged in this complaint.

11. Defendant Insurance Company "A" is designated with a fictitious name because its true name is not known at this time.

V. GENERAL ALLEGATIONS

12. On January 13, 2012, Ana Garay-De Jesús was riding a Metrobus bus in San Juan, Puerto Rico.

13. Once the bus arrived to its destiny at the Old San Juan terminal and Mrs. Garay-De Jesús was going to step off, the bus suddenly moved causing her to lose balance and fall on her right side hitting her right upper extremity against the floor.

14. Ana Garay's fall was caused by the sudden move of the bus while she was up to step off the bus.

15. Defendant First Transit of Puerto Rico's negligence and fault was the adequate cause of the aforementioned fall due to:

A. The bus driver's failure to make the passengers aware that the bus was going to move;

B. The bus driver's negligence to make a sudden movement of the bus once it had stopped.

C. The bus driver's lack of precaution and failure to take preventive measures to avoid the accident.

D. Its corporate failure to have in place or enforce the implementation of safety procedures in benefit of the passengers.

16. Defendants Insurance Company "A" is directly jointly and severally liable to the Plaintiff for all the damages caused to her as a result of the above.

VI. CAUSES OF ACTION

1. First Cause of Action

17. All the paragraphs stated herein above are literally incorporated herein and are made part of this paragraph.

18. As a direct consequence of the facts described above, the Plaintiff Ana Garay-De Jesús sustained a fracture in her right wrist.

19. For this injuries, on January 25, 2012, Ana Garay-De Jesus had a right wrist surgery in which plates and screws were placed to hold the fracture fragments. Thereafter, she received a right wrist immobilizer, prescription pain medication and around eight (8) physical therapy sessions.

20. As a direct result, Ana Garay De Jesús has suffered intense right wrist pain and impairment and limitation of motion, all which have substantially limited her capacity to perform most of her life's activities and to be permanently partially disabled of her general physiological functions.

21. The Plaintiff Ana Garay-De Jesús is entitled to receive full, just and fair compensation for these damages, in a money amount of no less than **two hundred thousand dollars (\$200,000.00)**.

2. Second Cause of Action

22. All the paragraphs stated herein above are literally incorporated herein and are made part of this paragraph.

23. As a direct result of the physical injuries and partial permanent disabilities stated above, the Plaintiff Ana Garay-De Jesús has sustained the loss of her capacity

to engage in most of her life activities and to enjoy life.

24. As a direct result of the above, the Plaintiff Ana Garay De-Jesús has suffered, is suffering and will continue to suffer severe mental, psychological, moral and emotional pain, anguish and distress.

25. The Plaintiff Ana Garay-De Jesús is entitled to receive full, just and fair compensation for the above stated damages, in a money amount of no less than **one hundred thousand dollars (\$100,000.00)**.

VII. TEMERITY

26. The paragraphs stated hereinbefore are literally incorporated herein and are made part of this paragraph.

27. In the event that the Defendants deny responsibility for the damages claimed herein, due to such and obstinate and temerarious denial, the Plaintiff would then be entitled to an award of prejudgment and post-judgment interest, to be computed from the amount finally adjudged to her, plus a reasonable amount for attorney's fees.

VIII. PRAYER FOR RELIEF

WHEREFORE, it is respectfully requested that Judgment be entered by this Honorable Court in favor of the

Plaintiff and jointly and severally against the Defendants:

- A. Granting the Plaintiff all the sums requested in complaint.
- B. Imposing upon the Defendants the payment of all costs and expenses to be incurred in this lawsuit.
- C. Granting the Plaintiff any other relief that they may be entitled to as a matter of law.
- D. And, in the event Defendants deny liability, awarding Plaintiff pre-judgment interests, plus a reasonable amount for attorney's fees.

RESPECTFULLY SUBMITTED in San Juan, Puerto Rico this 26th day of December, 2012.

s/ Juan M. Cancio Biaggi

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